

National Park Service  
Big Cypress Preserve Planning Team, DSC-P  
P.O. 25287  
Denver Co. 802250-0287  
September 30, 2009

Thank you for the opportunity to comment on the GMP/Wilderness Study/Off-Road Vehicle Plans for the Addition Lands. The Big Cypress is a very special place and was set aside for specific reasons for protection. I am writing as representative of the Collier Sportsmen and Conservation Club, Inc. We are a local user group of the Big Cypress National Preserve.

The Big Cypress was created as a buffer for Everglades National Park. It was the first unit to be designated a preserve because it allowed for activities that do not occur in parks. The enabling legislation and testimony to congress states the lands are to be managed for recreation and expected to be used hard. (See highlighted statements in the written statement of Senator Lawton Chiles ).

The Wilderness Study is required for all lands added to the preserve, a unit of NPS. It does not mandate the adoption of wilderness designation, merely the determination if they qualify. In fact, the enabling legislation of the BCNP Addition Act specifically addressed when the study was to be completed. (See Big Cypress Enabling legislation – Page 5-6, Sec. 7, #1). Instead of following the law of completing it within five years, the NPS intentionally delayed it for 21 years. I feel this was done by prior superintendents to allow some of the past uses to become overgrown as a method to change the law. If the study had been completed within the time period of five years, there would be little doubt that the Addition Lands had been trampled by man with such activities as logging, farming, oil exploration, cattle leases, ORV use, and private leases for hunting and recreation. These activities along with I-75 dissecting the Addition Lands should be more than enough for any intelligent person to reason they do not qualify for wilderness designation. The determination of wilderness should be conducted with aerial photos during this time frame. The consideration of making any part the Addition Lands a wilderness area is contrary to the intent of the BCNP legislation.

In conjunction with wilderness, primitive back country zones also take away from the intent of the BCNP legislation. It was never the intention of congress to place this type of restrictions on recreation in the BCNP (See Page 1, #2 of written statement of Senator Lawton Chiles).

The BCNP is already being managed with wilderness conditions with the designated ORV trail system. By confining ORV's to these trails, 99% of the current preserve is off limits to vehicles. ( 140 miles divided by 582,000 acres= .00002405, or .002405%). Is this too much to ask for the Addition Lands that are supposed to be managed consistently with the existing preserve? (See written statement of Senator Lawton Chiles-Page 1, #3).

NPS currently has the best practice for management. Wilderness designation will prevent the application of adaptive management for managing ORV trails. If wilderness areas are declared, trails corridors in these areas can not be adjusted in the future. It is a permanent condition. Wilderness also hampers necessary management such as the recent wildfires, managing exotic plants and reptiles, and conducting necessary studies.

I would like to express another serious concern. I attended two of the informational meetings for these studies conducted by the Big Cypress staff and participated in previous planning alternative meetings. I have heard repeatedly, the overwhelming majority of comments for not developing wilderness areas within the preserve. The press release (See United States Department of Interior letter from Superintendent Pedro Ramos., #4) states these alternatives were developed as a result of input from members of the public as being a source for the alternatives. How can that possibly be when not ONE alternative offers the choice for a no wilderness designation?

For all the reasons stated above, we can not support any alternative as written. Alt. B with modifications of no wilderness, no primitive back country and no restriction on miles of primary trails would be our best choice.

It was stated in the NPS alternative workshops that these comments would not be considered as votes.. We agree with that statement and would like to also state that the NPS should not be looking for a compromise but should

be following the intent of the Big Cypress legislation that created the preserve.

We are also concerned as to why the NPS chose to create a separate management plan with new ORV permits as opposed to merging the Addition Lands into the current preserve as the addition act called for (See statement of Senator Lawton Chiles-page 1, #3).

We strongly support the comments of the Florida Fish and Wildlife Commission. They are mandated to be a partner with NPS in the management of the preserve. We ask that both agencies cooperate for the good of the Preserve and the public's use of it.

Again, we appreciate the opportunity to comment and be a part of developing this process.

Sincerely,

A handwritten signature in cursive script that reads "Wayne Jenkins".

Wayne Jenkins, President  
Collier Sportsmen and Conservation Club, Inc.

Written Statement of Senator Lawton Chiles  
September 21, 1986  
S. 2029, Big Cypress Expansion Legislation

Page 49 of the record

Today I want, first, to outline reasons why these particular lands should be in Federal ownership. Then, I want to explain why we should move on this land acquisition program as soon as possible. And, finally, I want to make a few comments on the management of the Big Cypress.

Page 52  
Management of These Lands

#3 → The legislation I have sponsored contemplates that the lands added to the existing Big Cypress National Preserve will be managed consistently with those within the already established boundaries. The legislation amends the original act, however, by including a mandate in Section 10(b) (which became Section 5 in S.90 as passed) for the Park Service to promote and encourage recreational use. I appreciate having this opportunity to comment on the Park Service roll in allowing and regulating various activities allowed for under the original Big Cypress National Preserve Act.

Those of us who worked to provide for the public ownership of the lands now included in the Big Cypress did so with the understanding that the area would not be another National Park. Public ownership of these lands which would, in turn, further disrupt the sheet flow of water that is so essential to the livelihood of Everglades National Park. The important investment of Everglades National Park needed further protection and, for this reason, we worked to purchase the Big Cypress to act as a buffer to the Park.

#2 → Recognizing the "recreational values of the Big Cypress Watershed", the Preserve concept was developed so as to permit the continuation of the traditional activities associated with this area -- activities which may have not been compatible with the more stringent management requirements of a National Park. The Public Law establishing the Preserve charges the Park Service to provide for "the enhancement and public enjoyment thereof". While I did not envision that the allowable activities would be unregulated, I certainly did envision that these activities would be permitted and encouraged. My overriding concern, however, is that over the years the Park Service has moved toward employing managing objectives for this area as if it were a Park as opposed to embracing a more flexible management structure as I believe was envisioned in the creation of the Preserve concept. ←

I understand and appreciate the difficulties in achieving a balance between providing for the public enjoyment of the recreational values of the Big Cypress and assuring the ecological integrity of the preserve. While it is not an easy task, it is certainly one which was fully contemplated when the Preserve was established. Resource problems other than the original hydrological concerns, such as the endangered Florida Panther, have surfaced since the creation of the Preserve which need attention and action on the part of the various affected agencies. Public use and enjoyment of the area should be encouraged. What I don't want to see is the resource problems being a means by which to reduce and/or eliminate the public use and enjoyment of areas where public funds have been used to acquire the land. I believe we can reach a balance and have

expressed my concerns to the Regional Director of the National Park Service. I stand ready to work with the Committee as well as we strive to solve the diverse and complex problems associated with the unique area.

(While S.2029 did not pass that year the next year, January 6, 1987, S.90 was introduced and Senator Chiles made the same written statement. See pages 49 through 53 of the record.)

It is my opinion, after many conversations, meetings and exchanges of communications, with Senator Chiles that he was not happy with the way the National Park Service was moving to manage the Big Cypress National Preserve, neither were many other Congressional members. The National Park Service and there 'booster clubs' were attempting to manage this unit of the National Park Service as a park and not as a Preserve as intended by Congress when they created this new classification of property within the Department of Interior's jurisdiction. Thus the new section 10(b) (which became Sec. 5 in S.90) Senator Chiles addressed was added. This section states and applies to the entire Preserve:

Senate bill 90 "Section 5; Cooperation among agencies; The Act of October 11, 1974, is further amended by adding at the end thereof the following new section: "Section 10. The Secretary and other involved Federal agencies shall cooperate with the State of Florida to establish recreational access points and roads, rest and recreation areas, wildlife protection, hunting, fishing, frogging, and other traditional recreational opportunities in conjunction with the creation of the Addition and in the construction of Interstate Highway 75. Three of such access points shall be located within the preserve (including the Addition)."

In addition to the NPS not complying with the intent of Congress and the spirit of the enabling act as amended and approved they have not made their required reports to Congress.

Senate Bill 90; Section 7. Report to Congress. The Act of October 11, 1974, is further amended by adding at the end thereof following new section: Section 6. Not later than two years after the date of the enactment of this section, the Secretary shall submit to the Congress a detailed report on, and further plan for the preserve and Addition including -- "(1) the status of the existing preserve, the effectiveness of passed regulation and management of the preserve, and recommendations for future management of the preserve and the Addition; "(2) a summary of the public's use of the preserve and the status of the access points developed pursuant to section 10; "(3) the need for involvement of other State and Federal agencies in the management of the expansion of the preserve and Addition; "(4) the status of land acquisition and "(5) a determination, made in conjunction with the State of Florida, of the adequacy of the number, location, and design of the recreational access points on I-75/Alligator Alley for access to the Big Cypress National Preserve, including the Addition.

None of these reports have been done.

It is our suspicion that the reason these reports have not been done within the timely established by Congress is the NPS does not want to admit or show the level of use that occurred in the Addition lands at this time. By dealing with these reports in this manner the NPS would be able to justify, in their minds and the minds of those who do not know the history of the area, the creation of a Wilderness Area. This is what the current Superintendent is doing at this time. It is said the NPS cannot document any uses in the Addition lands thus there is cause to make it a Wilderness Area. While those outside of South Florida and new people to the area do not know the uses and levels of uses at the time these reports were supposed to be done they can accept this classification. They do not want to realize the creation of I-75 with the tall limited access fence has, along with the NPS no entry policy, except for hikers and mountain bike-riders (which is a new recreational activity for the Big Cypress), changed the uses of the area from what was there at the creation and passage of S.90. One can certainly understand how and why the NPS administration under President Clinton has decided to manage the Addition in a manner different than intended by Congress, the sponsors of the act and the public who supported the taking of

these private lands. After all the 'traditional' activities in the Big Cypress area are not really acceptable to the management philosophy of the National Park Service and their supporters.

Leadership in the NPS said they had not done these reports, just as they had not done their ORV management plan, because they do not/did not have the funds. I have to disagree with this tactic. They have the funds they have not spent the funds in the proper manner. That is they have spent money on a Scenic Highway plan and other activities within the Preserve. Why is this? In our opinion this strategy has been used because the NPS does not support the intent of the Preserve nor the uses in the manner Congress directed. What the NPS does support is those activities that they have, over the years, considered being standard activities and acceptable activities for units of the NPS. Thus they have not spent their funds in a manner that would not support their real desires and that is to make the Preserve a Park. As evidence to this though I submit the following: At Superintendent Fred Fagergren's departing party in the late 1980s he stated, according to our representative (City Commissioner Freddy Fisikelli) that he, Fred Fagergren, did his best to make the Preserve a Park. Today we have an NPS that is attempting to do the same.

~~SUP. FAGERGREN'S DEPARTING PARTY~~  
The issue of management was addressed by The Wilderness Society, speaking for the National Audubon Society, Sierra Club, Defenders of Wildlife, Florida Audubon Society, American Rivers Conservation Council, Friends of the Everglades, Florida Defenders of the Environment and the Environmental Policy Institute, Mr. Steven C. Whitney, testified on the topic of management by saying the following:

"In short, we believe the lands to be added to the Big Cypress should be managed under the same terms and conditions as have guided management of the Preserve for the last 12 years. The NPS should not be asked to manage one portion of the Preserve with one set of rules and the remainder with another. For this reason it is critical that the Subcommittee amend Section 4 of S. 90 to ensure that language regarding administration of the addition conforms to the language in the original legislation on this subject."

They asked that the Subcommittee delete "promote and encourage" hunting, fishing and trapping within the Addition. They also stated:

"We do not oppose hunting and fishing in the Big Cypress..."

We know from the bill that was finally approved addressed the issue of hunting, fishing and trapping was changed by including "frogging and other traditional opportunities." This new language further amended the enabling act thus it applies to the entire Preserve and not merely the Addition lands. If Senator Chiles and Congress meant for this language to apply only to the Addition lands it would have been so stated. The reason for the change, to include frogging, was after P.L. 93-440 past the NPS created a regulation to stop the taking of amphibians on all their land units. Thus the NPS was starting to talk about stopping frogging. Thus trapping was dropped, in 1986 there was no trapping in Florida, and frogging inserted. This way we have continued to frog on all the Preserve, including both the Addition and the original.

The companion to S.90 in the House had similar discussions and presentations but the House Subcommittee consisted of Congressman Vento of Minnesota who was known to not be particularly friendly to sportsmen and very friendly to "pure" park. Thus the following exchange between the Subcommittee and Senator Chiles and Congressman Lewis is very important to consider and to understand how the final Addition Act was adjusted to move get it through this Subcommittee.

Mr. Vento. Why should the addition be managed different and in what manner do you intend it to be managed? I guess I would like you to both (Senator Chiles and Congressman Lewis) address that generally and maybe we will be working on it specifically. But administratively, this may cause some difficulty. In other words, there is no natural boundary really between the proposed addition?

1986  
TESTIMONY

Mr. Chiles. If I may speak to that. You did not mention, and I appreciate your kind mention that I was the original co-sponsor of the Big Cypress National Preserve legislation. I remember when we were first discussing the need for Big Cypress National Preserve -- Congressman Haley from Florida was the chairman of this committee at that time, and of course he had a world to do with the legislation as well. But what we were talking about, when they said we need to establish a Big Cypress National Preserve, was the fact that the park did need this sheet flow, and there was a real danger that what was happening in the Big Cypress National Preserve at that time, a lot of development was going on there, canals were being dug, a lot of drainage was taking place, and the fear was that that was going to disturb the sheet flow.

At that time we were talking about creating the Big Cypress National Preserve, though, it was clear that we were not looking to create additional parkland as such.

As you know, the Everglades Park is a tremendous area, a tremendous habitat. You have already spoken about that. We were looking to protect the sheet flow and to protect the park itself, but there was no reason to sort of hold the land in exactly the same status. It was our intent in the Big Cypress National Preserve, if you look into the legislation, and we tried to spell out there, that we wanted it used for recreational use, as long as it did not conflict with the purpose of trying to protect the park. The feeling was that you got the park in one area, you limit the use there, you can't hunt or fish or camp in the park as such, and that is necessary.

What I have found over the years is that there is park mentality that goes with the Park Service having jurisdiction of the Big Cypress. Over the years we would find that in many instances in Big Cypress, they were attempting to close access attempting to limit what uses could be made in Big Cypress. So, in effect, we don't see the legislation as a change, we see this as a means of trying to spell out what was our original intent in creating the Big Cypress.

Later on in that meeting Congressman Lewis states: Mr. Chairman, the recreational access is what we are looking for. We feel that with the length of this road (I-75) in cutting off all access completely, it is necessary to point out there should be access with the legal and recreational access together. Mr. Lewis was explaining the need for three recreational access sites in the Big Cypress National Preserve including the original property and the addition. Thus again Section 5 applies to the entire Preserve. If not then the current recreational access site within the original boundary would not have been built. The other two are waiting to be built in the Addition lands.

All of the preceding information is very important so you will understand what lead up to such dialog and position taken by Florida Congressmen you must review the history of the original enabling act and the section concerning State and Federal working relationships. The original enabling act states:

Original enabling act Public law 93-440: Section 3. (b) In administering the preserve, the Secretary shall develop and publish in the Federal Register such rules and regulations as he deems necessary and appropriate to limit or control the use of Federal lands and waters with respect to: 1. motorized vehicles, 2. exploration for and extraction of oil, gas and other minerals, 3. grazing, 4. draining or construction of works or structures which alter the natural water courses, 5. agriculture, 6 hunting, fishing and trapping, 7. new construction of any kind, and 8. such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of this act: Provided, That the Secretary shall consult and cooperate with the Secretary of Transportation to

assure that necessary transportation facilities shall be located within the existing or reasonably expanded rights-of-way and construction within the reserve in a manner consistent with the purposes of this Act. Section 5. The Secretary shall permit hunting, fishing, and tapping on lands and waters under his jurisdiction within the preserve in accordance with the applicable laws of the United States and the State of Florida, except that he may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection and management, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting, fishing, or trapping shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting, fishing, and tapping activities.

Big Cypress Hearings before the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs United States of America, 93<sup>rd</sup> Congress, second session page 81:

Senator McClure. One final question. On a police matter, as I think the Department has settled upon the division between responsibility for hunting and fishing in the light that I stated it earlier.

Mr. Reed (Assistant Secretary Nat Reed). Yes, no problems with that. That is our standard language. The State of Florida is doing an expert job managing the deer herd and the turkey flock down in this part of the world. It has State wardens down there. We don't have. This is a natural area for the State to continue to manage.

Senator McClure. Again, briefly stated, the State of Florida would continue to control hunting and fishing regulations?

Mr. Reed (Assistant Secretary).. Yes, sir all the bills direct the Secretary to permit hunting and fishing in the area in accordance with applicable Federal and State laws.

As one can see there is not clear language in the enabling act telling the NPS that they must allow the State to manage wildlife and related activities. Yet the following statements and positions from significant individuals who testified before Congress as to how the Preserve would be managed and this relationship should have told the NPS how they were to deal with this matter.

Considering the position taken by the author's of these acts and that of Congressional committee members, whose actions were supported by an approving vote of the entire Congress, the NPS should know that they are to treat the entire Preserve as one unit with the same management actions. Mr. Nat Reed pointed this out when testifying before Congress about the Addition Act. It was also stressed by all presenters and members of Congress that the entire Preserve is to be managed under the same policies.

However, today this does not appear to be the case. It is strongly rumored that the current NPS administration is considering making a portion of the Preserve a Wilderness Area. The subject of Wilderness designation continues to arise in part because of the language in the original enabling act. Assistant Secretary Reed when testifying before Congress for all the agencies under the DOI made the following testimony.

Big Cypress Hearings before the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs United States of America, 93<sup>rd</sup> Congress, second session page 83:



## CONGRESSIONAL TESTIMONY

Senator Johnston. It is about the optimum use now, then, is that it?

Mr. Reed (Assistant Secretary). In the philosophy of use, this is what we would expect. I am sure it would increase in numbers as the State grows. There is no question about that. The usage will grow, but we want to keep the usage, the type of usage, to what it is now.

Senator Johnston. You don't want to build a trailer park?

Mr. Reed (Assistant Secretary). No, sir, I don't want to build very much of anything. I don't want the Federal Government going in and building visitors centers or roads or anything else. This is not that kind of place.

Senator Johnston. Are vehicles allowed in there?

Mr. Reed (Assistant Secretary). Yes, sir.

Senator McClure. Just two questions. One is the fact that you are asking questions which I think are very pertinent to the very fact that this is a unique designation, there is none other like it, so far as I know.

Mr. Reed (Assistant Secretary). Correct, Sir.

Senator McClure. If it is absolutely unique, what is the management philosophy? It is not a park, not a recreation area, not a national seashore. It is completely new breed of cat?

Mr. Reed (Assistant Secretary). It is a new breed of cat, sir.

Senator McClure. The question comes to the management philosophy. There is also involved in this bill the standard provision for wilderness review?

Mr. Reed (Assistant Secretary). That is true. That is probably in all of our legislation. This area is not like a park in which a great deal will remain in wilderness of wilderness type of use. This not going to be that type of use at all. This is going to be used and used hard, I think.

Senator McClure. If a wilderness designation should be added, it, in all likelihood, would preclude the use of any motorized vehicles, either land or water?

Mr. Reed (Assistant Secretary). Yes, sir.

Senator McClure. Which bears upon the question that Senator Johnston asked about vehicles being involved?

Mr. Reed (Assistant Secretary). I would be less than honest if I did not say we have to watch carefully and monitor the use and probably may have to regulate the use of swamp buggies in the Big Cypress... It is almost impossible to get into without the use of a vehicle. So we do want to regulate the use of that.

Senator McClure. It is regulated use rather than exclusion?

Mr. Reed (Assistant Secretary). Yes, sir.

← WILDERNESS  
STATEMENT

Page 82: Senator Johnston. When I say park I mean recreation area. Does that part really add anything to it?

Mr. Reed (Assistant Secretary). Yes, sir, I think it does. With the tremendous population increase on the east coast and now the Naples area, the Big Cypress is marvelous recreation experience. The majority of the people who are here in this room, who are property owners who have used the area on weekend camps, which are numerous, have a tremendous recreation experience getting away from the urban areas of both the east and west coast.



# United States Department of the Interior




## NATIONAL PARK SERVICE


Big Cypress National Preserve  
33100 Tamiami Trail East  
Ochopee, Florida 34141-1000

IN REPLY REFER TO:

July 13, 2009

Dear Friends and Neighbors of Big Cypress National Preserve:

#4  I am very excited to announce the publication of the *Draft General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental Impact Statement* for the Addition. It is the culmination of a great deal of time, effort, energy, and input from members of the public; the National Park Service; American Indian tribes; and other federal, state, and local agencies. Please take a few minutes to review the four alternatives and let us know what you like about the plan as well as what you feel can be improved.

 The 147,000 acres of the Addition were added to the Preserve in 1988, but were not planned for in the 1991 *General Management Plan*. The planning effort for the Addition began in 2001, and preliminary alternatives and management zones were released in 2005. As a result of legal requirements and a strong public response, the scope of the planning process was expanded in 2006 to include a wilderness study and off-road vehicle management plan. Revised preliminary alternatives followed in 2007, and based on feedback received the *Draft General Management Plan* was developed. I am pleased to present the most recent result of all that input and effort.

The enclosed *Draft General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental Impact Statement* for the Addition includes detailed maps and narrative text that describe a no-action alternative, which represents the way the Addition is currently managed, and three action alternatives, including a preferred alternative. The action alternatives present a range of off-road vehicle opportunities, lands being considered for wilderness proposal, and visitor facilities and experiences. The preferred alternative was developed from comments received throughout the planning process and incorporates elements of the other alternatives that people liked best. The four alternatives are discussed in chapter 2 (page 63), and the key impacts of implementing these alternatives are covered in chapter 4 (page 229).

- The no-action alternative describes a continuation of existing management and trends in the Addition. The Addition would remain closed to public recreational motorized use and motorized hunting. No wilderness would be proposed for designation.
- Alternative B would enable visitor participation in a wide variety of outdoor recreational experiences. About 48,919 acres of land would be proposed for wilderness designation, and up to 140 miles of sustainable ORV trails would be designated and phased in as part of the conceptual primary ORV trail network. Secondary ORV trails, as defined in the plan, could be designated in any of the backcountry recreation areas, approximately 94,817 acres or 65% of the Addition.
- The preferred alternative would provide diverse frontcountry and backcountry recreational opportunities, enhance day use and interpretive opportunities along road corridors, and enhance recreational opportunities with new facilities and services. About 85,862 acres of land would be proposed for wilderness designation, and up to 140 miles of sustainable ORV trails would be designated and phased in

as part of the conceptual primary ORV trail network. Secondary ORV trails, as defined in the plan, could be designated only in the ORV trail corridors and other backcountry recreation areas, approximately 52,431 acres or 36% of the Addition.

- Alternative F would emphasize resource preservation, restoration, and research while providing recreational opportunities with limited facilities and support. This alternative would maximize the amount of land proposed for wilderness designation, about 111,601 acres or 76% of the Addition. No ORV use would be available under this alternative.

With this letter, we are once again asking you to tell us what you think about how best to protect this unique place for the enjoyment of present and future generations. This *Draft General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental Impact Statement* for the Addition will be available for public review and comment through September 30, 2009. We strongly encourage you to submit your comments online by following the "Addition GMP" link from the Preserve website at [www.nps.gov/bicy](http://www.nps.gov/bicy). You may also submit written comments via conventional mail to Big Cypress National Preserve Planning Team, P.O. Box 25287, Denver, CO 80225-0287. You can also attend any of three public meetings to be held August 10, 11, and 12, 2009 (see times and locations below). Each of these meetings will include a formal public hearing to take public comment on the lands being considered for wilderness proposal as part of the general management plan, in accordance with the requirements of the Wilderness Act and federal regulations. Maps of the alternatives and wilderness proposals are included in the plan and will be available for review at the public meetings. Members of the public who wish to provide testimony will be given an opportunity to speak during the wilderness hearing portions of the meetings, which will begin at 6:00 p.m.

Monday, August 10, 2009  
4:00 p.m. – 7:30 p.m.

Miccosukee Resort and Convention Center  
500 SW 177th Ave.  
Miami, FL

Tuesday, August 11, 2009  
4:00 p.m. – 7:30 p.m.

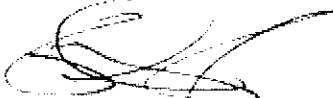
Edison State College  
7007 Lely Cultural Pkwy.  
Naples, FL

Wednesday, August 12, 2009  
4:00 p.m. – 7:30 p.m.

Everglades City Community Center  
205 Buckner Ave.  
Everglades City, FL

A thorough public review of the alternatives and their impacts is crucial to finalizing the plan, and I encourage you to comment online and/or attend one of the public meetings in August. My staff and I are committed to developing a final plan that follows the intent of our legislation by providing a variety of recreational opportunities while continuing to preserve and protect the natural and cultural resources of the Addition. We look forward to hearing your thoughts and opinions.

Sincerely,

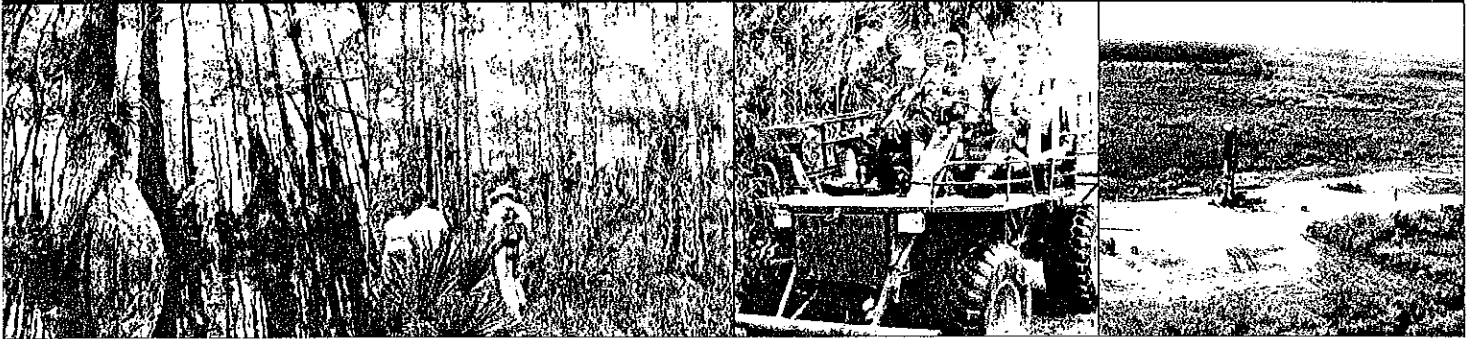


Pedro Ramos  
Superintendent

# Big Cypress

National Park Service  
U.S. Department of the Interior

Big Cypress  
National Preserve



## Enabling Legislation

P.L. 93-440, AN ACT TO ESTABLISH BIG CYPRESS NATIONAL PRESERVE, AS AMENDED BY P.L. 100-301, THE BIG CYPRESS NATIONAL PRESERVE ADDITION ACT

(ALL UNDERLINED SECTIONS ARE FROM THE 1988 ADDITION LEGISLATION)

An Act to establish the Big Cypress National Preserve in the State of Florida, and for other purposes. (88 Stat. 1255) (P.L. 93-440)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*  
That (a) in order to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress Watershed in the State of Florida and to provide for the enhancement and public enjoyment thereof, the Big Cypress National Preserve is hereby established.

(b) The Big Cypress National Preserve (hereafter referred to as the "preserve") shall comprise the area generally depicted on the map entitled "Big Cypress National Preserve", dated November 1971 and numbered 60-91,001, which shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and shall be filed with appropriate offices of Collier, Monroe, and Dade Counties in the State of Florida. The Secretary of the Interior (hereafter referred to as the "Secretary") shall, as soon as practicable, publish a detailed description of the boundaries of the preserve in the Federal Register which shall include not more than five hundred and seventy thousand acres of land and water.

(c) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, any lands, waters, or interests therein which are located within the boundaries of the preserve or the Addition: Provided, That any lands owned or acquired by the State of Florida, or any of its subdivisions in the preserve may be acquired by donation only and any land acquired by the State of Florida, or any of its subdivisions, in the Addition shall be acquired in accordance with subsection (d): Provided further, That no Federal

funds shall be appropriated until the Governor of Florida executes an agreement on behalf of the State which (i) provides for the transfer to the United States of all lands within the preserve *previously owned* or acquired by the State and (ii) provides for the donation to the United States of all lands acquired by the State within the preserve pursuant to the provision of "the Big Cypress Conservation Act of 1973 (Chapter 73-131 of the Florida Statutes) or provides for the donation to the United States of any remaining moneys appropriated pursuant to such Act for the purchase of lands within the preserve. No improved property, as defined by this Act, nor oil and gas rights, shall be acquired without the consent of the owner unless the Secretary, in his judgment, determines that such property is subject to, or threatened with, uses which are, or would be, detrimental to the purposes of the preserve. The Secretary may, if he determines that the acquisition of any other subsurface estate is not needed for the purposes of the preserve and the Addition, exclude such interest in acquiring any lands within the preserve and the Addition. Notwithstanding the provisions of section 301 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894, 1904) the Secretary (i) may evaluate any offer to sell land within the preserve and the Addition by any landowner and may, in his discretion, accept any offer not in excess of \$10,000 without an appraisal and (ii) may direct an appraisal to be made of any unimproved property within the preserve and the Addition without notice to the owner or owners thereof. Notwithstanding any other provision of law, and federally owned lands within the preserve or the Addition shall, with the concurrence of the head of the administering agency, be transferred to the administrative jurisdiction of the Secretary for the purposes of this Act, without transfer of funds. Nothing in this Act shall be construed to interfere with the right of the State of Florida to acquire such property rights as may be necessary for Interstate 75.

(d)(i) The aggregate cost to the United States of acquiring lands within the Addition may not exceed 80 percent of the total cost of such lands.

(2) Except as provided in paragraph (3), if the State of Florida transfers to the Secretary lands within the Addition, the Secretary shall pay to or reimburse the State of Florida (out of funds appropriated for such purpose) an amount equal to 80 percent of the total costs to the State of Florida of acquiring such lands.

(3) The amount described in paragraph (1) shall be reduced by an amount equal to 20 percent of the amount of the total cost incurred by the Secretary in acquiring lands in the Addition other than from the State of Florida.

(4) For purposes of this subsection, the term 'total cost' means that amount of the total acquisition costs (including the value of exchanged or donated lands' less the amount of the costs incurred by the Federal Highway Administration and the Florida Department of Transportation, including severance damages paid to private property owners as a result of the construction of Interstate 75.

Sec. 2. (a) In recognition of the efforts of the State of Florida in the preservation of the area, through the enactment of chapter 73-131 of the Florida statutes, 'The Big Cypress Conservation Act of 1973', the Secretary

is directed to proceed as expeditiously as possible to acquire the lands and interests in lands necessary to achieve the purposes of this Act.

(b) Within one year after the date of the enactment of this Act, the Secretary shall submit, in writing, to the Committee on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate:

(i) the lands and areas which he deems essential to the protection and public enjoyment of this preserve.

(ii) the lands which he has previously acquired by purchase, donation, exchange or transfer for administration for the purpose of this preserve, and

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

(c) It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated by this Act within six years after the date of its enactment.

SEC 3. (a) The owner of an improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value, on that date, of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, which shall include the exercise of such right in violation of any applicable State or local laws and ordinances, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(b) As used in this Act, the term "improved property" means:

(i) a detached, one family dwelling, construction of which was begun before November 23, 1971, with respect to the preserve and January 1, 1986 with respect to the Addition which is used for noncommercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated and such additional lands as the Secretary deems reasonably necessary for access thereto, such land being in the same ownership as the dwelling, and together with any structures accessory to the dwelling which are situated on such lands and

(ii) any other building, construction of which was begun before November 23, 1971, with respect to the preserve and January 1, 1986 with respect to the Addition which was constructed and is used in accordance with all applicable State and local laws and ordinances, together with as much of the land on which the building is situated, such land being in the same ownership as the building, as the Secretary shall designate to be reasonably necessary for the continued enjoyment and use of the building in the same manner and to the same extent as existed in November 23, 1971, or January 1, 1986, as the case may be, together with any structures accessory to the building which are situated on the lands so designated. In making such designation the Secretary shall take into account the manner of use in which the building, accessory structures, and lands were customarily enjoyed prior to November 23, 1971 or January 1, 1986 as the case may be.

(c) Whenever an owner of property elects to retain a right of use and occupancy as provided in this section, such owner shall be deemed to have waived any benefits or rights accruing under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), and for the purposes of such sections such owner shall not be considered a displaced person as defined in section 101(6) of such Act.

SEC 4. (a) The area within the boundaries depicted on the map referred to in section 1 shall be known as the Big Cypress National Preserve. Such lands shall be administered by the Secretary as a unit of the National Park System in a manner which will assure their natural and ecological integrity' in perpetuity' in accordance with the provisions of this Act and with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), as amended and supplemented.

(b) In administering the preserve, the Secretary shall develop and publish in the Federal Register such rules and regulations as he deems necessary and appropriate to limit or control the use of Federal lands and waters with respect to:

- (1) motorized vehicles,
- (2) exploration for and extraction of oil, gas, and other minerals,
- (3) crazing,
- (4) draining or constructing of works or structures which alter the natural water courses,
- (5) agriculture,
- (6) hunting, fishing, and trapping,
- (7) new construction of any kind, and

(8) such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of this Act: *Provided*, That the Secretary shall consult and cooperate with the Secretary of



Transportation to assure that necessary transportation facilities shall be located within existing or reasonably expanded rights-of-way and constructed within the reserve in a manner consistent with the purposes of this Act.

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on lands and water under his jurisdiction within the preserve and the Addition in accordance with the applicable laws of the United States and the State of Florida, except that he may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection and management, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting, fishing, or trapping shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting, fishing, and trapping activities. Notwithstanding this section or any other provision of this Act, members of the Miccosukee Tribe of Indians of Florida and members of the Seminole Tribe of Florida shall be permitted, subject to reasonable regulations established by the Secretary, to continue their usual and customary use and occupancy of Federal or federally acquired lands and waters within the preserve and the Addition, including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonials.

SEC. 6. Notwithstanding any other provision of law, before entering into any contract for the provision of revenue producing visitor services,

(i) the Secretary shall offer those members of the Miccosukee and Seminole Indian Tribes who, on January 1, 1972, (January 1, 1985 in the case of the Addition) were engaged in the provision of similar services, a right of first refusal to continue providing such services within the preserve and the Addition subject to such terms and conditions as he may deem appropriate, and

(ii) before entering into any contract or agreement to provide new revenue-producing visitor services within the preserve or within the Addition the Secretary' shall offer to the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida the right of first refusal to provide such services, the right to be open for a period of ninety days. Should both tribes respond with proposals that satisfy the terms and conditions established by the Secretary, the Secretary may allow the Tribes an additional period of ninety days in which to enter into an inter-Tribal cooperative agreement to provide such visitor services, but if neither tribe responds with proposals that satisfy the terms and conditions established by the Secretary', then the Secretary shall provide such visitor services in accordance with the Act of October 9, 1965 (79 Stat. 969, 16 U.S.C. 20). No such agreement may be assigned or otherwise transferred without the consent of the Secretary.

#1  
SEC. 7. Within five years from the date of the enactment of this Act, with respect to the preserve and five years from the date of the enactment of the Bid Cypress National Preserve Addition Act. with respect to the Addition the Secretary shall review the area within the preserve or the area within the Addition (as the case

may be) and shall report to the President, in accordance with section 3 (c) and (d) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the preserve or the area within the Addition (as the case may be) for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

SEC. 8. (a) Except as provided in subsection (b), there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed \$116,000,000 for the acquisition of lands and interests in lands and not to exceed \$900,000 for development. Any funds donated to the United States by the State of Florida pursuant to chapter 73-131 of the Florida statutes shall be used solely for the acquisition of lands and interests in land within the preserve.

(b) There is hereby authorized to be appropriated from the Land and Water Conservation Fund not to exceed \$49,500,000 for the acquisition of lands within the Addition. There is hereby authorized to be appropriated such sums as may be necessary for development in the Addition.

Approved October 11, 1974.

(The following are completely new sections added from Addition Legislation)

Sec. 9. (a) In order to -

- (1) achieve the purposes of the first section of this Act:
- (2) complete the preserve in conjunction with the planned construction of Interstate Highway 75; and
- (3) insure appropriately managed use and access to the Big Cypress Watershed in the State of Florida.

the Big Cypress National Preserve Addition is established.

(b) The Big Cypress National Preserve Addition (referred to in this Act as the 'Addition') shall comprise approximately 146,000 acres as generally depicted on the map entitled Big Cypress National Preserve Addition, dated April 1987, and numbered 176-910000, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior, Washington, D.C., and shall be filed with appropriate offices of Collier County in the State of Florida. The Secretary shall, as soon as practicable publish a detailed description of the boundaries of the Addition in the Federal Register.

(c) The area within the boundaries depicted on the map referred to in subsection (b) shall be known as the 'Big Cypress National Preserve Addition' and shall be managed in accordance with section 4.

(d) For purposes of administering the Addition and notwithstanding section 2(c), it is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated with

respect to the Addition in not more than five years after the date of the enactment of this paragraph.

Sec. 10. The Secretary and other involved Federal agencies shall cooperate with the State of Florida to establish recreational access points and roads, rest and recreation areas, wildlife protection, hunting, fishing, frogging and other traditional opportunities in conjunction with the creation of the Addition and in the construction of Interstate Highway 74. Three of such access points shall be located within the Preserve (including the Addition).

Sec. 11. Not later than two years after the date of the enactment of this section, the Secretary shall submit to the Congress a detailed report on, and further plan for, the preserve and Addition including -

(1) the status of the existing preserve, the effectiveness of past regulation and management of the preserve, and recommendations for future management of the preserve and the Addition;

(2) a summary of the public's use of the preserve and the status of the access points developed pursuant to section 10;

(3) the need for involvement of other State and Federal agencies in the management and expansion of the preserve and Addition;

(4) the status of land acquisition; and

(5) a determination, made in conjunction with the State of Florida, of the adequacy of the number, location, and design of the recreational access points on I-75/Alligator Alley for access to the Big Cypress National Preserve, including the Addition.

The determination required by paragraph (5) shall incorporate the results of any related studies of the State of Florida Department of Transportation and other Florida State agencies. Any recommendation for significant changes in the approved recreational access points, including any proposed additions, shall be accompanied by an assessment of the environmental impact of such changes.

Sec. 12. (a) Within nine months from the date of the enactment of the Big Cypress National Preserve Addition Act the Secretary shall promulgate, subject to the requirements of subsections (b)-(e) of the section, such rules and regulations governing the exploration for and development and production of non-Federal interests in oil and gas located within the boundaries of the Big Cypress National Preserve and the Addition, including but not limited to access on, across, or through all lands within the boundaries of the Big Cypress National Preserve and the Addition for the purpose of conducting such exploration or development and production, as are necessary and appropriate to provide reasonable use and enjoyment of privately owned oil and gas interests, and consistent with the purposes for which the Big Cypress National Preserve and the Addition were established. Rules and regulations promulgated pursuant to the authority of this section may be made by appropriate amendment to or in substitution of the rules and regulations respecting non-Federal oil and gas rights (currently codified at 36 CFR 9.30, et seq., (1986)).

(b) Any rule or regulation promulgated by the Secretary under subsection (a) of this section shall

provide that -

- (1) exploration or development and production activities may not be undertaken, except pursuant to a permit issued by the National Park Service authorizing such activities or access; and
- (2) final action by the National Park Service with respect to any application for a permit authorizing such activities shall occur within 90 days from the date such an application is submitted unless -
  - (A) the National Park Service and the applicant agree that such final action shall occur within a shorter or longer period of time; or
  - (B) the National Park Service determines that an additional period of time is required to ensure that the National Park Service has, in reviewing the application, complied with other applicable law, Executive orders and regulations; or
  - (C) the National Park Service, within 30 days from the date of submission of such application, notifies the applicant that such application does not contain all information reasonably necessary to allow the National Park Service to consider such application and requests that such additional information be provided. After receipt of such notification to the applicant, the applicant shall supply any reasonably necessary additional information and shall advise the National Park Service that the applicant believes that the application contains all reasonably necessary information and is therefore complete, whereupon the National Park Service may -

- (i) within 30 days of receipt of such notice from the applicant to the National Park Service determine that the application does not contain all reasonably necessary additional information and, on that basis, deny the application; or
    - (ii) review the application and take final action within 60 days from the date that the applicant provides notification to the National Park Service that its application is complete.

(c) Such activities shall be permitted to occur if such activities conform to requirements established by the National Park Service under authority of law.

(d) In establishing standards governing the conduct of exploration or development and production activities within the boundaries of the Big Cypress National Preserve or the Addition, the Secretary shall take into consideration oil and gas exploration and development and production practices used in similar habitats or ecosystems within the Big Cypress National Preserve or the Addition at the time of promulgation of the rules and regulations under subsection (a) or at the time of the submission of the application seeking authorization for such activities, as appropriate.

(e) Prior to the promulgation of rules or regulations under this section, the Secretary is authorized, consistent with the purposes of which the Big Cypress National Preserve Addition was established, to enter into interim agreements with owners of non-Federal oil and gas interests governing the conduct of oil and gas exploration, development or production activities within the boundaries of the Addition, which agreements shall be superseded by the rules and regulations promulgated by the Secretary when applicable: Provided, That such

agreement shall be consistent with the requirements of subsections (b) -(d) of this section and may be altered by the terms of rules and regulations subsequently promulgated by the Secretary: Provided further, That this provision shall not be construed to enlarge or diminish the authority of the Secretary to establish rules and regulations applicable to the conduct of exploration or development and production activities within the Big Cypress National Preserve or the Addition.

(f) There is hereby authorized to be established a Minerals Management Office within the Office of the Superintendent of the Big Cypress National Preserve, for the purpose of ensuring, consistent with the purposes for which the Big Cypress National Preserve was established, timely consideration of and final action on applications for the exploration or development and production of non-Federal oil and gas rights located beneath the surface of lands within the boundaries of the Big Cypress National Preserve and the Addition.

(g) There are hereby authorized to be appropriated such sums as may be necessary to carry out the activities set forth in this section.

#### *Legislative History.*

House Report No. 93-502 (Comm. on Interior and Insular Affairs).

Senate Report No. 93-1128 (Comm. on Interior and Insular Affairs).

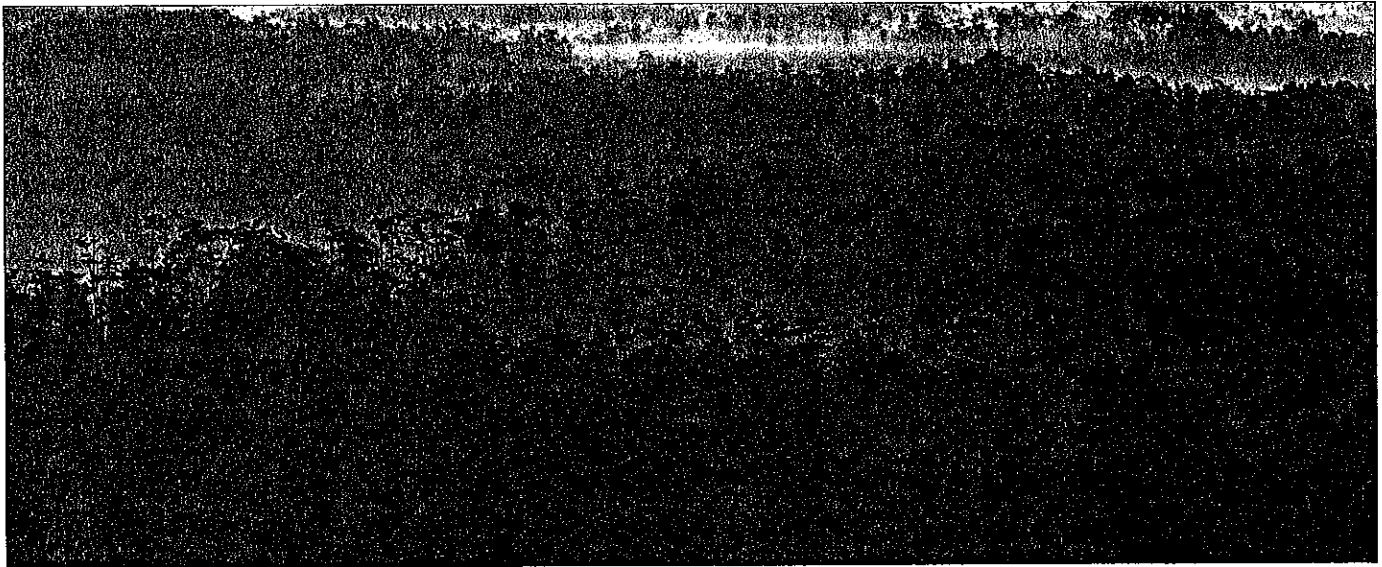
Congressional Record:

Vol. 119 (1973): Oct. 3, considered and passed House.

Vol. 120 (1974); Sept 9, considered and passed Senate, amended.

Sept. 24, House concurred in Senate amendments with amendments.

Oct. 1 Senate concurred in House amendments to Senate amendments.



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